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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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9 LAMERLE RONNIE JOHNSON,) No. C 07-2921 JSW (PR)
10 Petitioner,)
11 vs.) **ORDER TO SHOW CAUSE**
12 ROSANNE CAMPBELL, Warden,)
13 Respondent.)
14 _____)

15 **INTRODUCTION**
16

17 Petitioner, a prisoner of the State of California, currently incarcerated at Mule
18 Creek State Prison in Ione, California, has filed a habeas corpus petition pursuant to 28
19 U.S.C. § 2254 challenging the Board of Parole Hearings ("BPH") denial of parole during
20 parole suitability proceedings. Petitioner has paid the filing fee. This order directs
21 Respondent to show cause why the petition should not be granted.
22

23 **BACKGROUND**
24

25 According to the petition, Petitioner was convicted of kidnap/ransom in San Mateo
26 County Superior Court and was sentenced in 1996 to life plus 11 years. In this habeas
27 action, Petitioner does not challenge his conviction, but instead challenges the execution
28 of his sentence. Petitioner contends that the denial of parole by the BPH during parole
suitability proceedings in 2006 violated his constitutional rights. He alleges that he has
exhausted state judicial remedies as to all of the claims raised in his federal petition.

DISCUSSION

I Standard of Review

This court may entertain a petition for a writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a).

It shall “award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” *Id.* § 2243.

II Legal Claims

Petitioner alleges that his constitutional rights to due process and equal protection were violated by the parole denial by the BPH in 2006. Liberally construed, the allegations are sufficient to warrant a response from Respondent. *See Board of Pardons v. Allen*, 482 U.S. 369 (1987); *Sass v. California Bd. of Prison Terms*, 461 F.3d 1123, 1125 (9th Cir. 2006); *see, e.g., Morales. v. California Dep't of Corrections*, 16 F.3d 1001, 1005 (9th Cir. 1994), *rev'd on other grounds*, 514 U.S. 499 (1995).

CONCLUSION

For the foregoing reasons and for good cause shown,

1. The Clerk shall serve by certified mail a copy of this order and the petition, and all attachments thereto, on Respondent and Respondent's attorney, the Attorney General of the State of California. The Clerk also shall serve a copy of this order on Petitioner.

2. Respondent shall file with the Court and serve on Petitioner, within **sixty (60)** days of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer and serve on Petitioner a copy of all portions of the state trial record that have been transcribed previously and that are relevant to a determination of the issues presented by the petition. If Petitioner wishes to respond

1 to the answer, he shall do so by filing a traverse with the Court and serving it on
2 Respondent within **thirty (30)** days of his receipt of the answer.

3 3. Respondent may file a motion to dismiss on procedural grounds in lieu of an
4 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing
5 Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court
6 and serve on Respondent an opposition or statement of non-opposition within **thirty (30)**
7 days of receipt of the motion, and Respondent shall file with the Court and serve on
8 Petitioner a reply within **fifteen (15)** days of receipt of any opposition.

9 4. It is Petitioner's responsibility to prosecute this case. Petitioner must keep
10 the Court informed of any change of address by filing a separate paper captioned "Notice
11 of Change of Address." He must comply with the Court's orders in a timely fashion.
12 Failure to do so may result in the dismissal of this action for failure to prosecute pursuant
13 to Federal Rule of Civil Procedure 41(b)

14 IT IS SO ORDERED.

15 DATED: October 26, 2007



JEFFREY S. WHITE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LA MERLE RONNIE JOHNSON,

Case Number: CV07-02921 JSW

Plaintiff,

CERTIFICATE OF SERVICE

V.

ROSANNE CAMPBELL et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 26, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

La Merle Ronnie Johnson
MCSP (C14-245L)
J-92682
P.O. 409060
Ione, CA 95640-9060

Dated: October 26, 2007

Jennifer Ottolini
Richard W. Wierking, Clerk
By: Jennifer Ottolini, Deputy Clerk

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